



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R04-OAR-2013-0440; FRL- 9905-13-Region 4]**

#### **Approval and Promulgation of Implementation Plans; Tennessee;**

#### **Bristol; 2010 Lead Base Year Emissions Inventory and Conversion of Conditional**

#### **Approvals for Prevention of Significant Deterioration**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Lead 2010 base year emissions inventory State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on April 11, 2013. The emissions inventory was submitted to meet the requirements of the Clean Air Act (CAA or Act) for the Bristol 2008 Lead National Ambient Air Quality Standards (NAAQS) nonattainment area (hereafter also referred to as the “Bristol Area” or “Area”). Additionally, EPA is converting conditional approvals to full approvals for Tennessee’s 1997 annual fine particulate matter (PM<sub>2.5</sub>) NAAQS, 2006 24-hour PM<sub>2.5</sub> NAAQS and 2008 8-hour ozone NAAQS infrastructure SIPs as they relate to adequate provisions prohibiting emissions that interfere with any other State’s required measures to prevent significant deterioration of its air quality. EPA conditionally approved these portions of Tennessee’s infrastructure SIPs for these NAAQS on March 6, 2013, and March 26, 2013. Tennessee has since met the obligations

associated with these conditional approvals, and therefore, EPA is converting the conditional approvals to full approvals.

**DATES:** This rule will be effective [insert 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2013-0440. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-

8960. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

### **II. This Action**

### **III. Final Action**

### **IV. Statutory and Executive Order Reviews**

#### **I. Background**

##### **a. Emissions Inventory**

States are required under section 172(c)(3) of the CAA to develop comprehensive, accurate and current emissions inventories of all sources of the relevant pollutant or pollutants in the area. These inventories provide a detailed accounting of all emissions and emission sources by precursor or pollutant. In the November 12, 2008 Lead Standard rulemaking, EPA finalized the guidance related to the emissions inventories requirements. The current regulations are located at 40 CFR 51.117(e), and include, but are not limited to, the following requirements:

- States must develop and periodically update a comprehensive, accurate, current inventory of actual emissions from all source affecting ambient lead concentrations;
- The SIP inventory must be approved by EPA as a SIP element and is subject to public hearing requirements; and
- The point source inventory upon which the summary of the baseline for lead emissions inventory is based must contain all sources that emit 0.5 or more tons of lead per year.

For the base-year inventory of actual emissions, EPA recommends using either 2010 or 2011 as the base year for the contingency measure calculations, but does provide flexibility for using other inventory years if states can show another year is more appropriate.<sup>1</sup> For lead SIPs, the CAA requires that all sources of lead emissions in the nonattainment area must be submitted with the base-year inventory. In today's action, EPA is approving the base year emissions inventory portion of the SIP revision submitted by Tennessee on April 11, 2013, as required by section 172(c)(3). On October 23, 2013, EPA proposed approval of Tennessee's April 11, 2013, SIP revision. *See* 78 FR 63148. EPA did not receive any comments, adverse or otherwise, on the October 23, 2013, proposed action.

**b. Conditional Approvals**

On October 4, 2012, Tennessee submitted a letter requesting conditional approval of certain prevention of significant deterioration (PSD)-related infrastructure elements.<sup>2</sup> Specifically, Tennessee requested conditional approval of elements of the infrastructure SIP related to the requirements in its SIP applicable to its permitting program for adopting the PM<sub>2.5</sub> PSD increments as promulgated in the rule entitled "Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers (PM<sub>2.5</sub>) – Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC), Final Rule," 75 FR 64864 (October 20, 2010) (hereafter referred to as the "PM<sub>2.5</sub> PSD Increments-SILs-SMC

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<sup>1</sup> See EPA document titled "Addendum to the 2008 Lead NAAQS Implementation Questions and Answers" dated August 10, 2012, included in EPA's SIP Toolkit located at <http://www.epa.gov/air/lead/kitmodel.html>.

<sup>2</sup> The CAA requires that the SIP provide for the implementation, maintenance, and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an "infrastructure" SIP. *See* 42 U.S.C. 7410(a).

Rule”). Following promulgation of the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule, the PSD increments portion of the Rule became one of the prerequisites for approval of the PSD-related infrastructure requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS and the 2008 8-hour ozone NAAQS. The Rule provides additional regulatory provisions under the PSD program regarding the implementation of the PM<sub>2.5</sub> NAAQS for New Source Review, including PM<sub>2.5</sub> increments pursuant to section 166(a) of the CAA to prevent significant deterioration of air quality in areas meeting the NAAQS. PSD increments prevent air quality in attainment/unclassifiable areas from deteriorating to the level set by the NAAQS. As such, an increment is the mechanism used to estimate “significant deterioration” of air quality for a pollutant in an area. Under section 165(a)(3) of the CAA, a PSD permit applicant must demonstrate that emissions from the proposed construction and operation of a facility “will not cause, or contribute to, air pollution in excess of any maximum allowable increase or allowable concentration for any pollutant.”

With respect to the PSD-related requirements of section 110(a)(2)(D)(i)(II) for the 1997 annual and 2006 24-hour PM<sub>2.5</sub> NAAQS, and sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour ozone NAAQS, EPA conditionally approved Tennessee’s infrastructure SIP submissions, because at the time of these approvals, the State had not yet adopted the PSD increments provided in the PM<sub>2.5</sub> PSD Increment-SILs-SMC Rule; however, the State had committed through the October 4, 2012, commitment letter to do so within one year. Based upon this commitment, and consistent with section 110(k)(4) of the CAA, EPA took final action to conditionally approval the portions of Tennessee’s infrastructure SIP submissions related to the above-described PSD program requirements for the PM<sub>2.5</sub> 1997 annual and the 2006 24-hour NAAQS, and the 2008 8-hour ozone NAAQS. *See* 78 FR 14450 (March 6, 2013)

and 78 FR 18241 (March 26, 2013), respectively.

Following these actions, and consistent with the terms of the conditional approvals, Tennessee submitted a SIP revision on May 10, 2013, to adopt the PSD PM<sub>2.5</sub> increments (set forth in Chapter 1200-03-09 of the Tennessee Air Pollution Control Regulations - *Construction and Operating Permits*, Rule Number .01 - Construction Permits) and the then applicable regulatory requirements for implementing the PM<sub>2.5</sub> NAAQS, as promulgated in the PM<sub>2.5</sub> PSD Increments-SILs-SMC Rule. This SIP revision was provided to satisfy the October 4, 2012, commitment made by the State. On July 25, 2013, EPA took final action approving the May 10, 2013, submittal. *See* 78 FR 44886. As such, Tennessee has satisfied the conditions listed in EPA's previous conditional approvals for these infrastructure submissions. *See* 78 FR 44886 for additional information.

## **II. This Action**

On October 23, 2013 (78 FR 63148), EPA proposed approval of Tennessee's April 11, 2013, submission regarding the Bristol, Tennessee Lead 2010 base year emissions inventory and proposed to convert to full approvals the existing conditional approvals of Tennessee's 1997 annual PM<sub>2.5</sub> NAAQS, 2006 24-hour PM<sub>2.5</sub> NAAQS and 2008 8-hour ozone NAAQS infrastructure SIPs as they relate to adequate provisions prohibiting emissions that interfere with any other state's required measures to prevent significant deterioration of its air quality. EPA received no adverse comments on its proposed action and is hereby finalizing approval of this action.

### **III. Final Action**

EPA is approving the 2010 base year emissions inventory SIP revision for lead for the Bristol Area as submitted by the State of Tennessee on April 11, 2013. Additionally, EPA is converting to full approvals the March 6, 2013, and March 26, 2013, conditional approvals of the PSD-related requirements of section 110(a)(2)(D)(i)(II) for the 1997 annual and the 2006 24-hour PM<sub>2.5</sub> NAAQS, and the PSD-related requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the 2008 8-hour ozone. EPA is also removing the conditional approval language from 40 CFR 52.2219 to reflect that these elements of the infrastructure SIPs have been converted to full approval, and that Tennessee has met the State's obligations related to the previous conditional approvals. These actions are being taken pursuant to section 110 of the CAA.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take



effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides.

Dated: December 23, 2013.

A. Stanley Meiburg,  
Acting Regional Administrator,  
Region 4.

40 CFR part 52 is amended as follows:

**PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart RR—Tennessee**

2. Section 52.2219 is amended by removing and reserving paragraphs (c) and (e) to read as follows:

**§ 52.2219 Conditional approval.**

\* \* \* \* \*

(c) [Reserved]

\* \* \* \* \*

(e) [Reserved]

3. Section 52.2220(e) is amended by adding a new entry for “Bristol, Tennessee Lead 2010 Base Year Emissions Inventory” at the end of the table to read as follows:

**§ 52.2220 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

EPA-Approved Tennessee Non-regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
**	**	*	*	*

Bristol, Tennessee Lead 2010 Base Year Emissions Inventory	Bristol	4/11/2013	[Insert date of publication in <u>Federal Register</u> [Insert citation of publication]	
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[FR Doc. 2014-00030 Filed 01/08/2014 at 8:45 am; Publication Date: 01/09/2014]